

SENATE BILL NO. 218

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY SENATORS BUNDE, Guess, Dyson, Elton, Kookesh, Green, Olson, Hoffman

Introduced: 1/9/06

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to periodic polygraph examinations for sex offenders released on**
2 **probation or parole and to sentencing for sex offenders and habitual criminals."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 12.55.100 is amended by adding a new subsection to read:

5 (e) While on probation and as a condition of probation for a sex offense, the
6 defendant shall be required to submit to regular periodic polygraph examinations. In
7 this subsection, "sex offense" has the meaning given in AS 12.63.100.

8 * **Sec. 2.** AS 12.55.125(i) is amended to read:

9 (i) A defendant convicted of

10 (1) sexual assault in the first degree or sexual abuse of a minor in the
11 first degree may be sentenced to a definite term of imprisonment of not more than 99
12 years and shall be sentenced to a definite term within the following presumptive
13 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

14 (A) if the offense is a first felony conviction and does not

involve circumstances described in (B) of this paragraph, **24 to 26** [EIGHT TO 12] years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, **26 to 30** [12 TO 16] years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, **30 to 35** [15 TO 20] years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, **35 to 40** [20 TO 30] years;

(E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (I) of this section, **40 to 45** [25 TO 35] years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (I) of this section, and the defendant has two prior convictions for sexual felonies, **99** [30 TO 40] years;

(2) attempt, conspiracy, or solicitation to commit sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than **99** [30] years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a first felony conviction and does not involve circumstances described in (B) of this paragraph, **18 to 23** [FIVE TO EIGHT] years;

(B) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, **23 to 26** [10 TO 14] years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, **26 to 29** [12 TO 16] years;

1 (D) if the offense is a second felony conviction and the
 2 defendant has a prior conviction for a sexual felony, 29 to 32 [15 TO 20]
 3 years;

4 (E) if the offense is a third felony conviction, does not involve
 5 circumstances described in (F) of this paragraph, and the defendant is not
 6 subject to sentencing under (I) of this section, 32 to 35 [15 TO 25] years;

7 (F) if the offense is a third felony conviction, the defendant is
 8 not subject to sentencing under (I) of this section, and the defendant has two
 9 prior convictions for sexual felonies, 99 [20 TO 30] years;

10 (3) sexual assault in the second degree, sexual abuse of a minor in the
 11 second degree, unlawful exploitation of a minor, or distribution of child pornography
 12 may be sentenced to a definite term of imprisonment of not more than 99 [20] years
 13 and shall be sentenced to a definite term within the following presumptive ranges,
 14 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

15 (A) if the offense is a first felony conviction, 16 to 21 [TWO
 16 TO FOUR] years;

17 (B) if the offense is a second felony conviction and does not
 18 involve circumstances described in (C) of this paragraph, 21 to 24 [FIVE TO
 19 EIGHT] years;

20 (C) if the offense is a second felony conviction and the
 21 defendant has a prior conviction for a sexual felony, 24 to 27 [10 TO 14]
 22 years;

23 (D) if the offense is a third felony conviction and does not
 24 involve circumstances described in (E) of this paragraph, 27 to 30 [10 TO 14]
 25 years;

26 (E) if the offense is a third felony conviction and the defendant
 27 has two prior convictions for sexual felonies, 99 [15 TO 20] years;

28 (4) sexual assault in the third degree, incest, indecent exposure in the
 29 first degree, possession of child pornography, or attempt, conspiracy, or solicitation to
 30 commit sexual assault in the second degree, sexual abuse of a minor in the second
 31 degree, unlawful exploitation of a minor, or distribution of child pornography, may be

1 sentenced to a definite term of imprisonment of not more than 99 [10] years and shall
 2 be sentenced to a definite term within the following presumptive ranges, subject to
 3 adjustment as provided in AS 12.55.155 - 12.55.175:

4 (A) if the offense is a first felony conviction, 10 to 15 [ONE
 5 TO TWO] years;

6 (B) if the offense is a second felony conviction and does not
 7 involve circumstances described in (C) of this paragraph, 15 to 18 [TWO TO
 8 FIVE] years;

9 (C) if the offense is a second felony conviction and the
 10 defendant has a prior conviction for a sexual felony, 18 to 21 [THREE TO
 11 SIX] years;

12 (D) if the offense is a third felony conviction and does not
 13 involve circumstances described in (E) of this paragraph, 21 to 24 [THREE TO
 14 SIX] years;

15 (E) if the offense is a third felony conviction and the defendant
 16 has two prior convictions for sexual felonies, 99 [SIX TO 10] years.

17 * **Sec. 3.** AS 12.55.125(j) is amended to read:

18 (j) A defendant sentenced to a (1) mandatory term of imprisonment of 99
 19 years under (a) of this section may apply once for a modification or reduction of
 20 sentence under the Alaska Rules of Criminal Procedure after serving one-half of the
 21 mandatory term without consideration of good time earned under AS 33.20.010, or (2)
 22 definite term of imprisonment under (l) of this section may apply once for a
 23 modification or reduction of sentence under the Alaska Rules of Criminal Procedure
 24 after serving [THE GREATER OF (A)] one-half of the definite term [OR (B) 30
 25 YEARS]. A defendant may not file and a court may not entertain more than one
 26 motion for modification or reduction of a sentence subject to this subsection,
 27 regardless of whether or not the court granted or denied a previous motion.

28 * **Sec. 4.** AS 12.55.125(l) is amended to read:

29 (l) Notwithstanding any other provision of law, a defendant convicted of an
 30 unclassified or class A felony offense, and not subject to a mandatory 99-year
 31 sentence under (a) of this section, shall be sentenced to a definite term of

1 imprisonment of [AT LEAST 40 YEARS BUT NOT MORE THAN] 99 years when
 2 the defendant has been previously convicted of two or more most serious felonies
 3 [AND THE PROSECUTING ATTORNEY HAS FILED A NOTICE OF INTENT TO
 4 SEEK A DEFINITE SENTENCE UNDER THIS SUBSECTION AT THE TIME
 5 THE DEFENDANT WAS ARRAIGNED IN SUPERIOR COURT]. If a defendant is
 6 sentenced to a definite term under this subsection,

7 (1) imprisonment for the prescribed definite term may not be
 8 suspended under AS 12.55.080;

9 (2) imposition of sentence may not be suspended under AS 12.55.085;

10 (3) imprisonment for the prescribed definite term may not be reduced,
 11 except as provided in (j) of this section.

12 * **Sec. 5.** AS 33.16.150(a) is amended to read:

13 (a) As a condition of parole, a prisoner released on special medical,
 14 discretionary, or mandatory parole

15 (1) shall obey all state, federal, or local laws or ordinances, and any
 16 court orders applicable to the parolee;

17 (2) shall make diligent efforts to maintain steady employment or meet
 18 family obligations;

19 (3) shall, if involved in education, counseling, training, or treatment,
 20 continue in the program unless granted permission from the parole officer assigned to
 21 the parolee to discontinue the program;

22 (4) shall report

23 (A) upon release to the parole officer assigned to the parolee;

24 (B) at other times, and in the manner, prescribed by the board
 25 or the parole officer assigned to the parolee;

26 (5) shall reside at a stated place and not change that residence without
 27 notifying, and receiving permission from, the parole officer assigned to the parolee;

28 (6) shall remain within stated geographic limits unless written
 29 permission to depart from the stated limits is granted the parolee;

30 (7) may not use, possess, handle, purchase, give, distribute, or
 31 administer a controlled substance as defined in AS 11.71.900 or under federal law or a

1 drug for which a prescription is required under state or federal law without a
2 prescription from a licensed medical professional to the parolee;

3 (8) may not possess or control a firearm; in this paragraph, "firearm"
4 has the meaning given in AS 11.81.900;

5 (9) may not enter into an agreement or other arrangement with a law
6 enforcement agency or officer that will place the parolee in the position of violating a
7 law or parole condition without the prior approval of the board;

8 (10) may not contact or correspond with anyone confined in a
9 correctional facility of any type serving any term of imprisonment or a felon without
10 the permission of the parole officer assigned to a parolee;

11 (11) shall agree to waive extradition from any state or territory of the
12 United States and to not contest efforts to return the parolee to the state;

13 (12) shall provide a blood sample, an oral sample, or both, when
14 requested by a health care professional acting on behalf of the state to provide the
15 sample or samples, or an oral sample when requested by a juvenile or adult
16 correctional, probation, or parole officer, or a peace officer, if the prisoner is being
17 released after a conviction of an offense requiring the state to collect the sample or
18 samples for the deoxyribonucleic acid identification system under AS 44.41.035;

19 **(13) from a conviction for a sex offense shall submit to regular**
20 **periodic polygraph examinations; in this paragraph, "sex offense" has the**
21 **meaning given in AS 12.63.100.**

22 * **Sec. 6.** The uncoded law of the State of Alaska is amended by adding a new section to
23 read:

24 **APPLICABILITY.** Section 2 of this Act applies to offenses committed on or after the
25 effective date of this Act. References to prior offenses or convictions in sec. 2 of this Act
26 include offenses committed before, on, or after the effective date of this Act.